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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

OPENWAVE SYSTEMS INC.,

No. C 10-02805 WHA

Plaintiff,

v.

MYRIAD FRANCE S.A.S.,

**ORDER
REQUESTING
BRIEFING**

Defendant.

AND RELATED COUNTERCLAIMS

As directed, the parties filed a joint pre-trial and trial plan (Dkt. No. 272). The filing, however, indicates that the parties were unable to reach agreement on three points: (1) what issues are jury versus judge issues; (2) how to frame the issues regarding the meaning of the word "cover," and (3) whether a de novo determination whether a patent is a Missing Assigned Patent must be made, versus whether Openwave need only show it had a reasonable basis for its denials.

The parties are requested to brief these issues on the following schedule. Each side shall submit one opening brief addressing all three issues on **JUNE 14, 2011**. The opening briefs may be no longer than twenty pages, with fifty pages of attached exhibits, but they may also refer to facts already in the record. Simultaneous reply briefs will be due on **JUNE 21, 2011**. The reply briefs may be no longer than fifteen pages, with twenty pages of attached exhibits. These matters will then be deemed submitted for decision based on the filings. No oral argument will be heard unless necessary after the briefs are reviewed.

1 In addressing the first point, counsel should be specific as to which *issues* are jury versus
2 judge issues. Counsel should not simply argue for a jury trial or a bench trial without discussing
3 specific issues. In addressing the second point, counsel also should take care to be specific.

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5 **IT IS SO ORDERED.**

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7 Dated: June 6, 2011.

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WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE